P9

C.F. 71.

19

Department of

OFFICE [illegible]

STATION [illegible]

No. 172

Dated

£4954/39

SUBJECT.

[illegible] — Document No P59/39 —

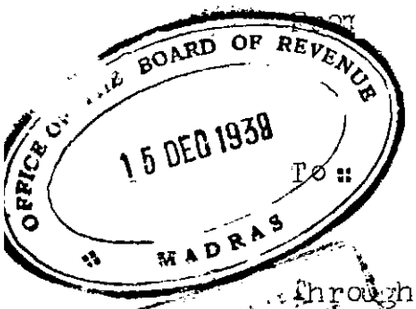
[illegible] — Adjudication — Costmetrons

[illegible]

1 4954.

C.No.686.Genl.39.

Office of the
Registrar of Assurances, South Kanara,
Mangalore, dated 6th December 1939.



From

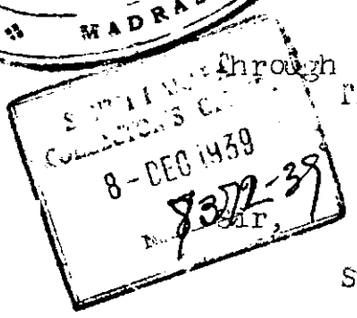
F. Soans, Esquire, B.A.,
Registrar of Assurances, South Kanara,
M a n g a l o r e.

To :

The Secretary, to the Board of Revenue,
Separate Revenue, M a d r a s.

through

The Collector of
South Kanara,
M a n g a l o r e.



Subject:- Document No.P.50 of 1939 of the Registrar's Office, South Kanara - Stamp duty - Section 56 (2) of the Stamp Act - Reference.

In forwarding herewith copy and translation of document No.P.50 of 1939 of Book 1 of this office which has been impounded by my Joint Sub-Registrar and forwarded to me for adjudication, I have the honour to refer the question of stamp duty thereon for the decision of the Board under section 56 (2) of the Stamp Act.

2. The document purports to be a dissolution of partnership of the net value of Rs.3000-0-0 and the release by one of the members in favour of the two other partners of the goodwill, stock in trade and all the assets of the partnership including immovable property. The consideration for the release appears to be Rs.5985-5-3 which the retiring partner still owes to the partnership after making arrangements for the adjustment of Rs.2000-0-0 a portion of the debt. The said sum of Rs.5985-5-3 has been remitted to the retiring partner in view of the relinquishment of his claim to the goodwill, stock in trade and assets of the partnership including immovable property.

3. I have the honour to solicit the instructions of the Board as to whether the document should be deemed as comprising 2 or 3 distinct transactions, that is to say, whether it should be viewed as comprising

a dissolution of partnership and release for Rs.5985-5-3 or

a dissolution of partnership, release for Rs.5985-5-3 and conveyance for Rs.5985-5-3 or

a dissolution of partnership and conveyance for Rs.5985-5-3

F.F.C.

4. There can be no doubt about the existence of the main transaction, viz., a dissolution of partnership But the point on which I feel a doubt is whether besides being a dissolution of partnership, the document should be viewed as comprising also a release for Rs.5985-5-3 and a conveyance for Rs.5985-5-3 under section 5 of the Stamp Act or as only a conveyance for Rs.5985-5-3 under section 6 of the Stamp Act.

5. It is implied in B.P.R.129 Mis.dated 8-4-1926, that when with a dissolution of partnership there is actual conveyance of property for consideration, the document should be viewed as a conveyance in addition to release. I presume that in the absence of any qualifying word before "property", the term should be used as comprehending all kinds of property, movable and immovable, tangible or intangible. Immovable property has been defined as including "land, benefits to arise and of land and things attached to the earth or permanently fastened to anything attached to the earth" "Movable property" means property of every description except immovable property. In the latter category therefore come such things as goodwill of business, trade mark, right under a decree. Of these "goodwill of a business" has been specifically treated as "property" in Potter versus Commissioners (1854) 10 Ex. 147; West London Syndicate versus in Revenue Commissioners (1898) 2 Queens Bench 507 etc. (vide page 50 of the commentaries on the Stamp Act by Sri K. Jagannatha Aiyar

6. Now to the analysis of the document into its component transactions and their examination in the light of the definition of property" above given. There is of course, the dissolution of partnership. There is also another transaction, which partakes of the character of (i) a release (article 44 of the Stamp Amendment Act) of the claim, of the retiring partner in favour of the remaining partners, in the goodwill - which is "property" as described above - stock-in-trade" and in fact all assets, movable and immovable of the partnership and (2) a transfer or conveyance (article 19 of the Stamp Amendment Act) of a share of the retiring partner in favour of the other partners with all its incidents such as goodwill of business. stock-in-trade and other assets, movable

and immovable. The subject matter of the release and conveyance being thus substantially identical, and the consideration for both being the same, it appears, in my humble view, to be opposed to the provisions of the Stamp Act to treat the document as comprising 2 distinct transactions of release and conveyance besides a dissolution of partnership. The document is rather one to which, in my opinion, section 6 should be applied and it should accordingly be treated as comprising only 2 transactions, viz., a dissolution of partnership and a conveyance for Rs.5985-5-3.

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7. I am not, however, sure if my view is correct. Hence this reference.

J. Lowe

Registrar.

by L. Dis 8372-39

Submitted to the Secretary to the Board of Revenue, Separate Revenue Nadu.

2. I agree with the views expressed by the Registrar of Assurances, South Kanara ~~expressed~~ in para-6 of his letter

Mangalore
13. 12. 1939

by 13.12

A. Narasimhan
for Collector.

13.12.39

ಪ/ಕಂ. ದಿ. 20-11-1939.

ವಿಲುಅನಂತೆ ವಮುಲ ನವತ್ರ.

ಕಂ 1939 ನೆಂಯ್ಸಿವಿ ಕರಂಬ್ರಕಾಂಲಕು ಸಿಂಯಿ ಚ್ಚುಕಿಕರಲ್ಲು ಕುಕ್ಕುರು
ತಾಲುಕು ಕುತ್ತುರುಕ್ಕು ಚೆಂಯುಳ್ಳಿರುವಿಗು. ನಿ. ನ್ಯಾರ್ಥ ವ್ಯಾವಿರಕ್ಕುವ
ವುಂಜೋಶ್ವರನಾ ರಾಂಯಣ ಭಟ್ಟರುಗಳಜನಾರ್ಧನಳ್ಳ, ನದ್ರಿಕ್ಕುಲಿ
ಯುಳ್ಳಿರುವಿ ನದ್ರಿಜಾತಿ ನದ್ರಿಕ್ಕುಲಿನ ಕುಂಡರ್ತ್ಯವಾ ಮನಕುತ್ತಿರವುನ
ಶಣ ಕತಿಕುತ್ತ್ವಕುಡಾತಾವಂಬ್ಬಂಗೆ.

ನದ್ರಿಕ್ಕುಲಿಂಯುಳ್ಳಿರುವಿವನದ್ರಿಜಾತಿ ನದ್ರಿಕ್ಕುಲಿನ ಕುಂಡರ್ತ್ಯವಾವುನಕು
ರ್ತ್ತಿರಮಗನಿಂಯು ಕ್ಕೆಕಿ ಸಿಂಯುವಿರವಿ ಚ್ಚುನ್ನಡೋದರಶಂವುಲವಂತೆ
ಕುತ್ತನುಬಳಕ್ಕುಳ್ಳಮುಲವ ಕರ್ಕಿಂಯೋವೆಂದ್ರೆ

ನೀವ್ವುವುಕ್ಕುನಾ ನುಕುಡಾತಾ ತಿಜನರು, ವುಂಜೋಶ್ವರಿಜನಾರ್ಧನ
ಭಟ್ಟರೆವುಕ್ಕುಕಂವೆನಿ" ಎಂಬಂಬಡಿನರಿಂದವಾಕ್ಕುರಳ್ಳಿಲಾಜೋಕವಿಶೇಷಗಳ
ಲಗ್ಗಾಕು ವ್ಯಾವಿರವಳ್ಳಿಯಿಂದು ಬರುತ್ತಿದ್ದೆಲು ನದ್ರಿವ್ಯಾವಿರವಮಿವಾಳಿ
ನಿಂದಕ್ರಮಿ ಕಿಲಳ್ಳಿಯುದ್ದು ವಂದುವುಮಿವರ್ಕ್ಕೆಯೆಕಿಕಳ್ಳಿಂಯುಕ್ರಂಯುಕ್ಕೆಚರದ
ಯುಳ್ಳಿಳಗಿನಿ ಕಾಲ್ಮಿಲಸ್ತಕಾಪ್ತಕಳುವುಕ್ಕುತಾಂಗಡಿಂಯುಳ್ಳಿದಾಜಂದ್ದೆಲು
ವುಕ್ಕುವ್ಯಾವಿರನಂವುಂದದಕ್ಕೆಕವಿಯುನಳುವಳ್ಳಿಗಿಭರನಿಕ್ಕುಗಳ
ಯುಳ್ಳಿಶುಳವಾರಳಿಂದುಗಾದಾಣ ನಿದಿಂಯಿರುವದಲ್ಲಿಚೆಯುಳ್ಳಿ
ನಲುವನಿಲುಗುಂಯಿರುತ್ತಿದ್ದೆ.

ನದ್ರಿವ್ಯಾವಿರವಕ್ಕುವಾಳಿರಲಿಖ್ಖುದಾಕ್ಷಿಂ ಪ್ರಕಾರವಳ್ಳುವುಮುಲದಳ್ಳಿ
ನಿಲಳ್ಳುಶವುಮುರುಯುನಿ, 3000/. ವುಮುರುನಿವಿರಮುಕ್ರಮುಲಕಾನ
ಕ್ಕೆದ್ದೆ.

ನಾನುನಂವಕುಯುಂಟಾಕ್ಕೆಗಿನದ್ರಿಕಂವೆನಿಂಯಿಂದಕೊಂಡುಯುಂದ
ನಗದಿವಳ್ಳಿಳಳ್ಳಿಯಿಂಯಿಂದಲಿಖ್ಖುದಾಕ್ಷಿಂ ಪ್ರಕಾರಯು 1985-5-3ನಂ
ನಿಂದನಲಕ್ಕೆಕ್ಕರ್ದಿರುಕ್ಕೆಲಿ ಪ್ರಕ್ಕೆಕಳಮಿನವಳುಳ್ಳಿಪತ್ತಿಯಿಂದಮೋಲ್
ಯೋಳಿರಂವೆಯುಲಕ್ಕೆಯೋಜನಸ್ಯಯಿರುವದಾದರು ಅರೀತಿಲುನ್ನಕುನ
ಕ್ಕೆನಿಶಿಕ್ಕುಳ್ಳಿಕ ಕ್ರೈನಾಕುಳಿರುವಿನದ್ರಿಯು 1985-5-3ವನೆಯುಲು
ಯುಯುಳ್ಳಿಕಾಕ್ರಿಂದ್ಸು ಅಲ್ಲುವಿಲು ನಗದುಳಿಲು ನಂಯಿಂದನಿ
ಧ್ಯವಿಲ್ಲದೆನಂವೆಯುಳ್ಳಿಲು ವಿಳ್ಳಿಕಲುಂಟಾಗಿನಾನುನದ್ರಿಕಂವೆ
ನಿಯಿಂದತಗಲುವಿದಾ ನಿಂಯು ನದ್ರಿವ್ಯಾವಿರನಿಲವುಲುಳ
ಂಯುಲ್ಲಿವಾನದಾಯಿಯಿಂದನಂವಂವು ನಯುನತೋವತಿನಯುಳ್ಳಿಕಾನಿ

ಯು ನಂಬರುಳ್ಳ ಮನೆಯ ಪೂರ್ವಕ್ಕೆ ಸ್ವಲ್ಪ ದೂರದಲ್ಲಿ ಕಂಬ್ಯಾಕಿಯೆಂಬವರಿಂದ ನಲುವತ್ತೆರಡು ಸೆಂಟ್ಸ್ ನಿವೇಶನವನ್ನು ಸುಮಾರು ರು/೬೦೦/- ಕ್ಕೆ ಸನ್ ೧೯೮೦ ನೇ ಇಸವಿಯಲ್ಲಿ ಕ್ರಯಕ್ಕೆ ತೆಗೆದುಕೊಂಡು ಅದರಲ್ಲಿ ಮನೆಯನ್ನು ಕಟ್ಟಿಸಿಕೊಂಡಿದ್ದು ಅದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಕಂದಾಯ ಇಲಾಖೆಯಲ್ಲಿ ಪೋಡಿ ಆಗಿ ಸರ್ವೆ ನಂಬರ್ ೬೭೮೫-೫-೩ ನೇದಾಗಿ ಬದಲಾಗಿರುತ್ತದೆ. ಸದರಿ ಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಮೂಲ ಕ್ರಯಪತ್ರವನ್ನು ಕಳೆದುಕೊಂಡಿದ್ದು ಅದರ ಜೆರಾಕ್ಸ್ ಪ್ರತಿಯನ್ನು ಮಾತ್ರ ಇಟ್ಟುಕೊಂಡಿರುತ್ತೇನೆ. ಸದರಿ ಸ್ವತ್ತಿಗ

ನಂಬುಂದರು ಬಾಧ್ಯಸ್ಥರಾಗಿರುತ್ತಾರೆಯಲ್ಲ.

ಅಂಗಡಿಯಂದರಲ್ಲಿ ಖಾಯಂ ಪ್ರಕಾರದ ಹೊರಗಿನ ವಸ್ತುಗಳನ್ನು ಕೊಂಡುತಂದು ಇಂಬು ಬಡ್ಡಿದಾರರಿಗೆ ಮಾರುವ ಕಲ್ಲುಬೆಲೆ ನಂಬುಂದನನ್ನು ನಾದರೂ ವಸ್ತುನಂಬಿ ಮೈಲಂತ್ತಾನಸ್ಥರ್ಮ್ಮದವರಲ್ಲಿ ಬಡ್ಡಿದಾರಿಗೆ ಮಾರುವುದು.

ಅಂಗಡಿಯಂದರಲ್ಲಿ ಖಾಯಂ ಸ್ಥಳದಲ್ಲಿ ವಸ್ತುಗಳನ್ನು ಮಾರುವ ನಂಬುಂದರು ಕಾರ್ಯಗಳನ್ನು ನಿಂದು ವಹಿಸಬೇಕೆಂದಿರುತ್ತದೆ.

ಮೇಲ್ಕಾಣಿಸಿದ ಕಂಡಿಕೆಗಳನ್ನು ತಿದ್ದುಪಡಿ ಮಾಡಿದ ನಂದನಲು ತೀರ್ಮಾನ 1985-5-3ರಲ್ಲಿ ನಂದಾಯಿಸಿದ್ದಕ್ಕಾಗಿ ಸ್ಥಾಪನಾ ಶುಲ್ಕವಾಗಿ ಪ್ರತಿಯೊಬ್ಬ ಸದಸ್ಯರು 1500/- ರೂಪಾಯಿಗಳನ್ನು ದಿನಾಂಕ 1-12-1985ರ ಒಳಗಾಗಿ ಸಂಘಕ್ಕೆ ಕಟ್ಟಿಸಿಕೊಳ್ಳಲು ಈ ಸಭೆಯು ನಿರ್ಣಯಿಸಿದೆ. ಸದರಿ ಶುಲ್ಕವನ್ನು ಕಟ್ಟದೇ ಇರುವ ಸದಸ್ಯರಿಗೆ ಸಂಘದ ಸೌಲಭ್ಯಗಳನ್ನು ಒದಗಿಸಲಾಗುವುದಿಲ್ಲವೆಂದು ಈ ಸಭೆಯು ನಿರ್ಣಯಿಸಿದೆ. ಸದರಿ ಶುಲ್ಕವನ್ನು ಕಟ್ಟಿದ ಸದಸ್ಯರಿಗೆ ಮಾತ್ರ ಸಂಘದ ಸೌಲಭ್ಯಗಳನ್ನು ಒದಗಿಸಲಾಗುವುದ

Deed of Dissolution of partnership and release.

Executed this the 20th day of November 1939 by Anantha Kudva son of Kundadka Vamana Kudva and divided younger brother of No.2 infra, merchant, Gowd Saraswat Brahmin, residing at Puttur Kasba, Puttur Taluk.

In favour of (1) Janardhana Bhatta son of Manjeshwar Narayana Bhatta (2) Ganapathi Kudva son of Kundadka Vamana Kudva, merchants, Gowd Saraswat Brahmins, residing at Puttur Kasba, Puttur Taluk.

All the three of us together have been trading at Puttur for several years under the name of "Manjeshwar Janardhana Bhat & Co." The assets of the company are immoveable property hereinbelow described purchased for consideration from the proceeds of the company jointly in the names of all the three of us, piecegoods in stock, moveables, almirahs etc. relating to the business of the company and moneys due to the company from outside and liabilities also by way of debts due from the company.

Deducting all debts due from the total the net income of the company as per accounts comes to about Rs.3000/-.

A sum of Rs.7985-5-3 is due from me to the company as per accounts by way of cash, piecegoods etc. taken by me from the said company for the benefit of my family. Though the condition of the firm at present discloses as aforesaid a clear profit, as I am liable to pay Rs.7985-5-3 due from me to the company the non-payment of which sum by me in cash has caused misunderstanding among us and which sum I am not in a position to pay in cash now, as I have said to you, therefore, that I would release myself from the company and that you should relieve me from all obligations regarding the assets and liabilities of the company, as arbitrators for compromise decided that in full satisfaction of my debt to the company I should undertake to pay in cash to the creditors of the company to the extent of Rs.1500/- as required by the company that I should execute a deed of personal bond for Rs.500/- payable in instalments in 5 years, that the balance of Rs.5985-5-3 should be remitted by you and that without any claim for any portion of the profits of the company, I should release myself of the rights in all the transactions of the company in your favour and as I too

P.T.O.

have agreed and whereas towards the discharge of a debt of Rs.1500/ due by the company in the transaction of the business of the company to the firm of "The Great Durbar Beedi Works, Mangalore" I have this day separately along with other mortgaged my portion of the joint right over property and obtained for you a receipt for Rs.1500/- and whereas I have also this day executed and got registered the deed of personal bond mentioned above, by this I relinquish all rights and relationship in respect of the immoveable property described hereunder relating to the business transactions of the company you and I have been hitherto managing, moveables, piecegoods, furniture etc. relating to the business of the company, debts due to the company from outside and the goodwill of the company and I hereby dissolve my partnership with the company.

Hereafter you have the sole right of immoveable property described hereunder to be enjoyed at your pleasure, piecegoods and other moveables in the shop to be sold or disposed of as you desire, outstandings of the company as per accounts to be collected or such steps as may be necessary for the collection thereof be taken by you. You have the full right for these and I and my heirs have no right whatever

Debts due from the company as per accounts should be settled by you and you will be held responsible and be liable for any loss that I may sustain due to your non-payment of such debts.

The records relating to property and the account books of the company are in your possession.

As aforesaid as per decision of the arbitrators towards the full discharge of the sum of Rs.7985-5-3 due from me to the company I have obtained for you receipt for Rs.1500/- from the firm of "The Great Durbar Beedi Works" executed in your favour the personal bond for Rs.500/- and towards the balance of Rs.5985-5-3 remitted by you for the acknowledgement of which debt I have to-day separately procured from you registered receipt. now therefore you have no right whatever to claim any thing more as still due from me in respect of this transaction.

Description of immovable property etc. in respect of this deed of dissolution of partnership and release. xx xx xx

(True translation of the extract)

Registrar's Office South Kanara,

Mangalore, dated 6th December 1939.

Registrar.

13

[E.M.G.]

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
Whe received for fai. copying ..	4/11	MG.1
When opied ..	14.1.40	GS
When examined..		
When signed ..		
When despatched.		

SUBJECT:— Stamp duty - [South Kanara] Document No P 59/39 - Registrar Ntee, S. Kanara - Adjudication - Instructions - Issued.

READ AGAIN _____, dated _____ 19____

" " _____ " _____ 19____

READ *ALSO*:—

No. _____ From the Regr of Assurances, S.Kanara, dated ~~letter~~ C.No 686 - Enl 2-39 d 6-12-39 -

" _____ " _____ " _____ " _____ 19____

" _____ " _____ " _____ " _____ 19____

~~Order~~ / Resolution (Ms.) / ~~Rout.~~ No. 172, dated 18.1.40 19____

The Bd agrees with the Registrar in considering that the document should be treated as a dissolution of partnership & conveyance for Rs 5985/- [illegible]

E.M.G. 17.1.40

ICN 17.1.40.

To

The Regr of Assurances, S. Kanara

The Collector of S. Kanara.

Ltr 20/1

Ltr 20/1

Ltr 18/1/40

Done ICN 18/1/40.

MG
J.S.

L4954/39 Note file

Stamp duty - [South Kanara] - Document No P50/39 of Registrar office, S. Kanara - Adjudication

Papers put up

1. B.B 122 Mis/8.4.26 (F)
2. B.B 289 Mis/30.7.24.
3. Jagannath Ayyar Stamp Act

Hh 1-3 from the Regr. of Assurances, South Kanara letter C. No 686 - Enl - 39 d 6.12.39

To Joint Secretary

Please see the letter from the Regr. of S. Kanara Hh 1-3 of

2/. The question raised for the Bds decision is the stamp duty leviable on the document (a copy of which is at Hh 5-10 of + translation of which is at Hh 11-12 of. The document purports to be a Dissolution of Partnership of the net value of Rs 3000/-. The release by one of the partners in favour of the two other partners of the goodwill, Stock in Trade + all the assets of partnership including immoveable property the consideration for the release is stated to be Rs 5985-5-3 which the retiring partner still owes to the partnership after making arrangements for the adjustment of Rs 2000/- a portion of the debt. The said sum of Rs 5-985-5-3 has been remitted to the retiring partner in view of the relinquishment of his claim to the goodwill, stock-in trade etc Vide Hh of

- 1/2 -

3/. The document, as stated by the

the Registrar, comprises of ~~three transactions~~ ~~Dissolution of Partnership, Release & Conveyance for Rs 5985-5-3~~.

the following transactions: — Vide para 6 pg 2 of

(i) Dissolution of Partnership: Since the retiring partner seceded from the partnership the partnership as between the retiring partner & the other partners is dissolved.

(ii) A Conveyance of a share of the retiring partner in favour of the other partners with all its incidents such as goodwill &c and

(iii) A 'release' of the claim of the retiring partner in favour of the remaining partner of the goodwill, stock in trade & in fact all assets of the partnership.

The subject matter of the 'release & Conveyance' are substantially identical & the consideration for both is the same: The With regard to these transactions therefore, the provisions of Sec 6 are applicable & the document should be viewed as comprising of only 2 main transactions viz Dissolution of Partnership & Conveyance for Rs 5985-5-3. The Regr. may be invited that the view expressed by him is correct. For orders

8.1.40 11/1/40.

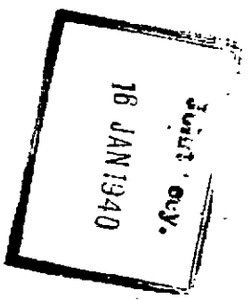
Issued.

M4

Dissolution of partnership comes in higher fee than release, so it will be proper to treat this as a dissolution of partnership and conveyance of Rs 5985.

The letter does not state how the document was, in fact, stamped when it was admitted for registration —

16/1



To Joint Sey

Draft Submitted

Y. With refce to the last portion of the Member's remarks above, refce is solicited to para of the Regr's letter wherein it is stated that the doct. under refce was impounded by the Joint Sub Regr & sent to the Regr [for adjudication apparently, under §40]. The doct must therefore have been insufficiently stamped. The Regr has made this reference in order to ascertain the proper stamp duty leviable on it.

17.1.40

17.1.40.

SB No 172

Dated 18.1.40

Single Member

~~Full Board~~

I.A.	A.D.S. and L.R.	Assistant Secretary			Jt. Secy.	Secy.	M-4.	M-3	M-2	M-1
		Land Rev.	Settle- ment.	Sep. Rev.						

1. Open file seen by
2. Final draft seen by
3. Now circulated to
4. Initials.

Passed for record.

~~Secretary~~
Joint Secretary.

A.S. (C.W.)

A.S. (L.R.)

A.S. (Sett).

A.S. (Excise)

A.D.S. & L.R.

I.A.

Note:- Entries not required to be scored out.